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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	96-262
	)	
Assessment of Presubscribed	)	CCB/CPD No. 98-34
Interexchange Carrier Charges	)	
on Public Payphone Lines	)	
	)	

Comments of Ameritech

Ameritech[1] respectfully submits the following response to questions posed by the Common Carrier Bureau in the Public Notice in the above-captioned matter on May 4, 1998.[2]

Question 1(a): Letter from John H. Goida, President, Teleconcepts Inc. to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, April 17, 1998. Issue: Are LECs double dipping by assessing the PICC on both the presubscribed 1+ and 0+ interexchange carrier?

Ameritech does not assess the PICC for public payphone lines on multiple interexchange carriers, and, therefore, is not double dipping. Our accounting records and billing systems identify no more than one presubscribed interexchange carrier ("PIC") for each subscriber line, including LEC public payphone lines, and only the presubscribed interexchange carrier of record is assessed the PICC. In the case of LEC public payphone lines, the PIC of record is the 0+ service provider, because, under Ameritech's tariffs, the 0+ provider is responsible for selecting the 1+ carrier for LEC public payphone lines.

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[1] Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

[2] *Commission Seeks Comment on Specific Questions Related to Assessment of Presubscribed Interexchange Carrier Charges on Public Payphones*, CCB/CPD No. 98-34, Public Notice, DA 98-845 (rel. May 4, 1998).

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Consequently, the 0+ provider is assessed the PICC for Ameritech's public payphone lines.

Question 1(b): Letter from Larry Kay, National Operator Services, to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, April 22, 1998. Issue: Does section 69.153 permit price cap LECs to impose PICC charges for LEC public payphone subscriber lines?

National Operator Services (NOS) contends that PICC charges should not be assessed on public payphone lines because they are "fundamentally different from residential and business lines." Specifically, NOS asserts that the econometric models used to justify PICC charges, which, it claims, assume that business and residential consumers will make more direct dial long distance calls as long distance rates decline due to access charge reductions, are inapplicable to public payphone lines because, unlike other subscriber lines, public payphones do not generate a reliable volume of long distance traffic and revenue for the PIC due to the "transient use" of, and prevalence of access code calling on, such phones. It argues that the Commission therefore could not have intended to apply PICCs to public payphone lines.

As discussed in response to question 2, Ameritech believes that the language and purpose of section 69.153 support the imposition of PICC charges on all subscriber lines, including LEC public payphone lines. Moreover, limiting LECs' ability to recover PICCs for such lines, would unfairly inflate PICC and/or carrier common line ("CCL") charges for interexchange carriers for other subscriber lines because residual common line costs (that is, those costs not recovered through end user common line ("EUCL") charges under section 69.152, 49 C.F.R. § 69.152) would be divided by too few subscriber lines.

In addition, NOS's premise that public payphones are fundamentally different from other subscriber lines because they do not generate a reliable volume of long distance traffic is incorrect. Whether a specific subscriber line generates a particular volume of long distance traffic, and benefits from access rate reductions, depends on the calling pattern of the particular end user, not on what type of line (residential, single line business, or payphone) it is. Many small business and residential customers make few, if any, long distance calls, while others dial around their PIC, denying them a reliable revenue stream.[3] Nevertheless, interexchange carriers presubscribed to such customers' lines are still required to pay PICC charges. Moreover, many public payphones (for example, those located in airports) generate a substantial amount of 0+ and 1+ long distance traffic. Thus, public payphone lines are not substantially different from other subscriber lines, and, therefore, should be subject to PICCs under the Commission's rules.

<u>Question 1(c): Letter from Stephen H. Loberbaum, General Counsel, ONCOR Operator Communications, Inc., to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, April 22, 1998. Issue: Should LEC public payphone lines be subject to the multiline business PICC?</u>

Ameritech believes that subscriber lines should be classified the same (that is, as a primary or non-primary residential line, or as a single or multi-line business line) for both EUCL charges and PICCs because both charges seek to recover the same costs, and failure to do so would require presubscribed interexchange carriers for other subscriber lines to pay a disproportionate share of permissible common line costs. In the *Payphone Reclassification Order*, the Commission specifically required price cap LECs to assess the multi-line business subscriber line EUCL to subscriber lines that terminate at LEC public

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[3] Ameritech notes in this regard that AT&T recently submitted a letter to the Commission describing its revenue losses due to residential access code calling. Letter of Rick D. Bailey, Vice President, Federal Government Affairs, AT&T Corporation, to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, May 1, 1998 (noting that dial around companies have "target[ed] AT&T's residential customers," and that AT&T has incurred a "significant and material loss of revenue from its residential basic schedule customers to dial around services").

payphones to avoid discrimination among payphone providers.[4] LEC public payphone lines should, therefore, be subject to the multi-line business PICC.

Question 1(d): Letter from William M. Waldron, Boston Telecommunications Company, to Jane Jackson, Chief, Competitive Pricing Division, Common Carrier Bureau, April 22, 1998. Issue: Whether the PICC for public payphones should be apportioned between the 0+ and 1+ PIC?

As previously discussed, Ameritech's account and billing records identify only one PIC for each subscriber line, which, in the case of public payphones, is the 0+ service provider. To the extent that 0+ service providers in Ameritech's region believe that the PICC should be apportioned between the 0+ service provider and the 1+ carrier, that is a business issue for them to resolve with 1+ carriers.

Question 2: Does the Commission's existing rule governing the collection of the PICC, 47 C.F.R. § 69.153, permit price cap LECs to impose PICC charges for LEC public payphone lines, and, if not, should the rule be amended to provide explicitly for assessment of PICCs on public payphone lines?

Ameritech believes that section 69.153 permits price cap LECs to assess PICCs for public payphone lines for two reasons. First, imposing PICCs on public payphone lines is consistent with both the language and purpose of section 69.153. That section, which establishes the PICC, specifically provides that price cap LECs may assess the PICC on interexchange carriers' presubscribed end user lines to recover the pro rata portion of permissible common line revenues attributable to such lines that cannot be recovered

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[4] 47 C.F.R. § 69.152(c); *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Operator Services Access and Pay Telephone Compensation*, CC Docket Nos. 96-128, 91-35, 11 FCC Rcd 20541, 20634 (1996) (*Payphone Reclassification Order*) ("we conclude that, to avoid discrimination among payphone providers, the multiline business SLC must apply to subscriber lines that terminate at both LEC and competitive payphones"); Order on Reconsideration, 11 FCC Rcd 21233 (1996) (*Payphone Reconsideration Order*).

through EUCL charges.[5] While neither section 69.153 nor the Commission's *Access Charge Reform Order*[6] directly addresses how the PICC should apply to LEC payphone lines, the language of section 69.153 plainly suggests that LECs may assess a PICC on any line subject to an EUCL, including LEC payphone lines.[7] Any other interpretation would prevent price cap LECs from recovering all of their permissible common line costs, or require presubscribed interexchange carriers for other subscriber lines to pay a disproportionate share of permissible common line costs through excessive PICCs or CCL charges, and therefore be flatly inconsistent with the goal of section 69.153, which is to replace the carrier common line charge ("CCL") with a mechanism that permits price cap LECs to recover permissible non-traffic sensitive common line costs that cannot be recovered through EUCL charges through flat-rated, per-line charges assessed against each end user's presubscribed interexchange carrier.[8]

Second, failure to apply section 69.153 to LEC payphone lines could skew the numbers used to calculate the PICC charge, and result in presubscribed interexchange

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[5] "A charge expressed in dollars and cents per line may be assessed upon the subscriber's presubscribed interexchange carrier to recover the common line revenues permitted under the price cap rules in part 61 of this chapter that cannot be recovered through the end user common line charge established under § 69.152 . . . ." 47 C.F.R. § 69.153(a).

[6] *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure Pricing; End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*).

[7] As discussed below, price cap LECs are required to assess the multi-line business subscriber line EUCL to LEC public payphone lines. *Payphone Reclassification Order*, 11 FCC Rcd at 20634.

[8] *Access Charge Reform Order*, 12 FCC Rcd at 16022 ("To the extent that the SLC ceilings on all lines and the PICC ceilings on primary residential and single-line business lines prevent recovery of the full common line revenues permitted by our price cap rules, incumbent price cap LECs may recover the shortfall through a flat-rated, per-line PICC on non-primary residential and multi-line business lines."). That the Commission intended to permit price cap LECs to recover all of their residual, permissible common line revenues through PICC charges is reinforced by the fact that LECs are permitted to collect the PICC directly from any end user that does not have a PIC. 47 C.F.R. § 69.153(b).

carriers for other subscriber lines being charged excessive PICC or CCL charges. In the *Access Reform Tariff Designation Order*,[9] the Commission specifically acknowledged that, "[i]f a LEC does not include all of the lines it is permitted to charge a PICC in making its calculations, the PICC determined using the formula in section 69.153 will be too high because residual revenues will be divided by too few lines."[10] For that reason, the Commission determined that the number of subscriber lines used to calculate PICC charges should be the same as the number of lines used to calculate EUCL charges, tentatively concluding that inward-only lines (which are subject to EUCL charges) that do not have a PIC must nevertheless be included in both SLC and PICC counts because no provision in the *Access Charge Reform Order* exempts inward-only lines from being so included.[11] Because the Commission specifically required price cap LECs to assess the multi-line business subscriber line EUCL to LEC public payphone lines,[12] it must also have intended that they include such lines in the number of subscriber lines used to calculate PICC charges, and, therefore, to permit price cap LECs to assess PICCs on LEC public

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[9] *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, 13 FCC Rcd 2249 (1998) (*Access Reform Tariff Designation Order*).

[10] *Id.* at 2258. Because the amount of the CCL (which is gradually being replaced by the PICC) depends on the amount of residual permissible common line revenues, if any, not recovered by the EUCL and PICC, failure to apply the PICC to LEC public payphone lines could also improperly inflate the CCL.

[11] *Id.* at 2260 (noting that "these lines are assessed a SLC, pursuant to section 69.152(a), which states that a SLC is assessed upon end users that subscribe to local exchange service"). In that proceeding, AT&T and MCI had asserted that LECs' SLC and PICC line counts should be identical because the SLC charges and PICC seek to recover the same costs. *Id.* at 2258.

[12] *Payphone Reclassification Order*, 11 FCC Rcd at 20634 ("we conclude that, to avoid discrimination among payphone providers, the multiline business SLC must apply to subscriber lines that terminate at both LEC and competitive payphones").

payphone lines. Otherwise, interexchange carriers presubscribed to other subscriber lines could be charged excessive PICCs or CCL charges.

That the Commission intended to permit LECs to assess PICCs on public payphone lines is reinforced by the Commission's determination in the *Payphone Reconsideration Order* that regulated line costs associated with payphone lines that could not be recovered through the SLC because of the cap on the multi-line SLC charge could "be recovered through . . . CCL charges in the same manner as the deficit costs associated with non-payphone lines.[13] Ameritech submits that the Commission could not have intended, *sub silento*, to reverse this determination, and deprive LECs of the ability to recover residual common line costs, merely by eliminating the CCL and replacing it with the PICC. Rather, the Commission plainly intended to permit price cap LECs to assess PICC charges on public payphone lines to recover common line costs associated with public payphones that were recovered previously through the CCL.

If the Commission nevertheless concludes that section 69.153 does not permit price cap LECs to assess PICC charges for LEC public payphone lines, it should promptly amend the rule to provide explicitly for the assessment of PICCs on public payphone lines to ensure that presubscribed interexchange carriers for multi-line business subscriber lines are not assessed excessive PICC charges, and to ensure that LECs can recover all of their permissible common line revenues.

<u>Question 3: Assuming that price cap LECs are permitted to assess PICC charges on public payphone lines, should the PICC be: (a) charged to the presubscribed 1+ carrier; (b) charged to the presubscribed 0+ carrier; (c) imputed to the LEC's payphone unit as an end user; (d) split evenly between the 1+ and 0+ PIC; (e) prorated among all IXCs that</u>

[13] *Payphone Reconsideration Order*, 11 FCC Rcd at 21324.

carry calls originating from a particular payphone each month; or (f) allocated by some alternative method?

Ameritech believes that the PICC for public payphone lines should be assessed on the PIC of record, which, in the case of public payphones in Ameritech's region, is the 0+ service provider. To the extent that 0+ providers or 1+ carriers for public payphones believe that PICC charges should be allocated between them, that is a business issue that should be resolved by them. Price cap LECs should not be required to incur the additional billing and collection costs that would be necessary to allocate and collect PICC charges from multiple interexchange carriers.

Additionally, as discussed above, public payphone lines are not uniquely susceptible to dial around and variable long distance traffic and revenue. Indeed, dial around and collect calling services are being used increasingly on other types of subscriber lines, particularly residential lines. Nevertheless, LECs are not required to prorate PICC charges among PICs and providers of dial around and calling card services for such lines; only the PIC is responsible for paying the PICC. There is, therefore, no basis to treat public payphone lines differently from other subscriber lines, and to require LECs to prorate PICC charges among all interexchange carriers that carry calls originating from a particular payphone each month.

Question 4: Should all public payphones be charged the multiline business PICC, or should some public payphones, such as those that constitute the only telephone line at a given location, be charged the single-line business PICC?

Ameritech believes that a subscriber line should be classified in the same manner for purposes of calculating EUCL and PICC charges. Thus, for example, a subscriber line classified as a multi-line business subscriber line for the EUCL charge should also be classified as a multi-line business subscriber line for the PICC. If it were not, PICCs, or CCL charges, imposed on other multi-line business subscriber lines would be excessive because residual, permissible common line revenues would be divided by too few lines.[14] Because the Commission has required LECs to assess the multi-line business subscriber line EUCL on all payphone lines, including LEC public payphone lines, the multi-line business subscriber line PICC should apply to all payphone lines. If the Commission decides to treat some payphone lines as single line business lines for purposes of calculating the PICC charge, it should also treat those lines as single line business lines for the EUCL.

Question 5: Do policy reasons, practical considerations, or other factors suggest that price cap LECs should be permitted to assess PICCs on the LECs public payphone lines that are different in amount, or collected from a different party, from those assessed on privately-owned payphones?

In the *Payphone Reclassification* proceeding, the Commission deregulated LEC payphone operations, and required LECs to compete on a level playing field with independent payphone providers. For this reason, the Commission specifically required LECs to impose the multi-line business subscriber line EUCL, which had previously been applied to private payphone lines, to all payphone lines. The Commission should, therefore, treat LEC public payphones no differently from private payphones for purposes

[14] Ameritech notes in this regard that section 69.153 specifically provides that the PICC for multi-line business subscriber lines is to be calculated based on the "total number of projected multi-line business subscriber lines in use." 47 C.F.R. § 69.153(d)(2)(i).

of calculating, assessing and collecting PICC charges.

Respectfully submitted

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